

**Notice of Non-Compliant
Amendment (37 CFR 1.121)**

Application No.
10/657,516

Applicant(s)
BINETTE ET AL.

Art Unit
2800

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

The amendment document filed on October 17, 2006 is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121 or 1.4. In order for the amendment document to be compliant, correction of the following item(s) is required.

THE FOLLOWING MARKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- ☐ 1. Amendments to the specification:
 - ☐ A. Amended paragraph(s) do not include markings.
 - ☐ B. New paragraph(s) should not be underlined.
 - ☐ C. Other _____.
- ☐ 2. Abstract:
 - ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
 - ☐ B. Other _____.
- ☐ 3. Amendments to the drawings:
 - ☐ A. The drawings are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d).
 - ☐ B. The practice of submitting proposed drawing correction has been eliminated. Replacement drawings showing amended figures, without markings, in compliance with 37 CFR 1.84 are required.
 - ☐ C. Other _____.
- ☒ 4. Amendments to the claims:
 - ☒ A. A complete listing of all of the claims is not present.
 - ☐ B. The listing of claims does not include the text of all pending claims (including withdrawn claims)
 - ☐ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following status identifiers: (Original), (Currently amended), (Canceled), (Previously presented), (New), (Not entered), (Withdrawn) and (Withdrawn-currently amended).
 - ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
 - ☒ E. Other: CLAIMS 25-47 MISSING.
- ☐ 5. Other (e.g., the amendment is unsigned or not signed in accordance with 37 CFR 1.4):

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714.

TIME PERIODS FOR FILING A REPLY TO THIS NOTICE:

1. Applicant is given **no new time period** if the non-compliant amendment is an after-final amendment or an amendment filed after allowance, or a drawing submission (only). If applicant wishes to resubmit the non-compliant after-final amendment with corrections, the **entire corrected amendment** must be resubmitted.
2. Applicant is given **one month**, or thirty (30) days, whichever is longer, from the mail date of this notice to supply the correction, if the non-compliant amendment is one of the following: a preliminary amendment, a non-final amendment (including a submission for a request for continued examination (RCE) under 37 CFR 1.114), a supplemental amendment filed within a suspension period under 37 CFR 1.103(a) or (c), and an amendment filed in response to a Quayle action. If any of above boxes 1 to 4 are checked, the correction required is only the corrected section of the non-compliant amendment in compliance with 37 CFR 1.121.

Extensions of time are available under 37 CFR 1.136(a) only if the non-compliant amendment is a non-final amendment or an amendment filed in response to a Quayle action.

Failure to timely respond to this notice will result in:

Abandonment of the application if the non-compliant amendment is a non-final amendment or an amendment filed in response to a Quayle action; or

Non-entry of the amendment if the non-compliant amendment is a preliminary amendment or supplemental

Legal Instruments Examiner (LIE), if applicable Stella Little

Telephone No: 571-272-4365

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Francois Binette et al.

Application No.: 10/657,516

Group Art Unit: 1636

Filed: September 8, 2003

Examiner: Qian, Celine

Entitled: CHONDROCYTE THERAPEUTIC
DELIVERY SYSTEM

Docket No.: 22956-225 (MIT-5018)

I hereby certify that this correspondence is being transmitted via EFS-Web to the Commissioner for Patents, P.O. Box 1450
Alexandria, VA 22313-1450 on the date set forth below.

October 30, 2006

By:

Date of Signature and Mail Deposit

George Xixis, Reg. No.:38,664
Attorney for Applicant(s)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE TO NOTICE OF NON-COMPLIANT AMENDMENT

Dear Sir:

This communication is in response to the Notice of Non-Compliant Amendment dated October 25, 2006. This communication states that the amendment document filed on October 17, 2006 was non-compliant for failing to meet the requirements of 37 CFR 1.121 or 1.4. Additionally, the Notice of Non-Compliance states that claims 25-47 were missing from the "list of amended claims" accompanying the response filed October 17, 2006.

Claims 25-47 were withdrawn from examination by the Applicants in a response to a restriction requirement filed on May 6, 2006. Applicants, therefore inadvertently omitted these claims (claims 25-47) from the "list of amended claims" that accompanied the amendment and response document of October 17, 2006.

To correct this informality Applicants respectfully resubmit a complete claim listing in compliance with 37 CFR 1.121(c). This response is timely and no additional fees are believed to be due at this time. However, the Commissioner is authorized to charge any deficiencies in the required fees to Deposit Account No. 141449 under number 22956-225.

Dated: October 30, 2006

Respectfully submitted,

By 

George Xixis

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